THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 22682 of 2006

Dated: 29-11-2006

Between:

G.Gyaneshwar

..... PETITIONER

AND

The Station House Officer,
Prohibition and Excise Station,
Nampally, Hyderabad and another

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 22682 of 2006

O R D E R:

The petitioner herein claims to have purchased auto bearing No.AP 11X 2088 with the loan advanced by one M/s Super Auto Finance. While so, the said vehicle was seized in connection with an alleged offence under the provisions of the Andhra Pradesh Excise Act, 1968 in the month of July, 2006. Thereafter, the financier M/s Super Auto Finance made an application before the second respondent-Deputy Commissioner of Prohibition and Excise for interim custody of the vehicle pending finalisation of confiscation proceedings. The second respondent having considered the said request, passed an order dated 29-08-2006 directing the financier to furnish FDR for Rs.65,000/- from any Nationalized Bank along with two other sureties duly notarized as a condition for grant of interim custody. The said order is challenged by the petitioner stating that the condition imposed by the second respondent is onerous and since the financier is not willing to comply with the said condition the vehicle has not been released and he is not able to carry on his business.

Pending this writ petition, the petitioner has also made a separate application seeking interim custody, however, the same was dismissed by order dated 16-11-2006 rejecting the request of the petitioner to accept the FDR for a sum of Rs.10,000/- in stead of Rs.65,000/- as per earlier order dated 29-08-2006.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing for the

respondents.

The material placed before this Court shows that a charge sheet has been filed by the Prohibition and Excise Inspector, Nampally under Section 7A read with 8(e) of A.P. Prohibition Act, 1995 (for short 'the Act') and the proceedings are pending before the Court of the XII Additional Chief Metropolitan Magistrate, Hyderabad. That apart, under the provisions of the Act, if the allegations are established, apart from prosecution, the vehicle in question is also liable for confiscation. Such enquiry is pending before the second respondent-Deputy Commissioner of Prohibition and Excise, who thought it fit to grant interim custody on depositing a sum of Rs.65,000/-. I do not find any justifiable reason to hold that the said condition is either unreasonable or onerous. The interference by this Court is not warranted with such a discretionary order, which does not suffer from any infirmity.

However, having regard to the facts and circumstances of the case, the writ petition is disposed of with a direction to the second respondent to complete the enquiry pending on his file and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

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G. ROHINI, J

Dated: 29-11-2006
KLP